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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,110	06/14/2006	Jurg Egli	5809	5291
26/936 7590 08/03/2010 SHOEMAKER AND MATTARE, LTD 10 POST OFFICE ROAD - SUITE 100 SILVER SPRING, MD 20910				
EXAMINER				
A. PHI DIEU TRAN				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
08/03/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/570,110

**Applicant(s)**

EGLI ET AL

**Examiner**

PHI D. A

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25 and 27-45 is/are pending in the application.
- 4a) Of the above claim(s) 32-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25, 27-31, 42-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Objections***

1. Claims 32-39 are objected to because of the following informalities: the claims are withdrawn claims. They need to be properly identified accordingly. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim appears to positively claim " insulation material", however, independent claim 42 appears to claim the insulation material as a subcombination. The claim is further confusing in scope.

The claim is examined as best understood to be a claiming a combination between insulation and the profile

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 25, 27-30, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154).

Mooney et al (figure 8) shows a profile for frames of wall elements, doors or windows having a top part and a bottom part (5, 4), each containing an end wall (the planar parts at the end of 5 or 4), and having side walls(1, 2) which connect the top part and bottom part, the top part and the bottom part have at least one angular deviation, running parallel to a side wall, for forming a contact surface, the side walls are connected to the top part and the bottom part in the region of the contact surface, at least one side wall has a laterally disposed mounting (20) for the reception of a side element which can be fixed onto the side wall, the side walls have obliquely running webs, wherein the side walls are welded to the top part and to the bottom part (col 2 line 75-80), the height of the side walls being more than the distance between the end walls of the top and bottom part, the side walls are welded to the top part and the bottom part in the region of the contact surface, the side walls are disposed on the inner side, the mounting for the reception of the side element is U-shaped (20), wherein the side walls have parallel-running guide grooves, wherein the webs are configured as a row of approximately V-shaped arrangements, wherein at least one of said webs has a bead(the part of 6 which is inwardly of part 1 or 2) running in the longitudinal direction of the web.

Mooney et al does not show the height of the side walls being less than or equal to the distance between the end walls of the top part and bottom part.

Toti et al shows the height of the side walls (2, 3, figures 7, 16) being less than or equal to the distance between the end walls of the top part and bottom part.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's structures to show the height of the side walls being less than or equal to the distance between the end walls of the top part and bottom part as taught by Toti et al since changing the dimension of a well known structure would have been an obvious matter of engineering design choice in order to fit a particular design specification.

3. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154).

Mooney et al as modified shows all the claimed limitations except for a lining is attached to the side walls.

Mooney et al figure 4 shows a lining (13) attached to the side walls.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's modified structures to show a lining is attached to the side walls as shown in figure 4 since it provides for the secure attachment of the top and bottom parts together with the side walls.

4. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al (1360774) in view of Toti et al (3224154) as applied to claim 25 above and further in view of Gwynne (4691494).

Mooney et al as modified shows all the claimed limitations except for the top part and bottom part are made of steel and the side walls of a material having lower thermal conductivity than steel, especially of high-grade steel

Gwynne discloses the use of steel for forming a supporting member to form a strong supporting member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Mooney et al's modified structures to show the top part and bottom part are made of steel as taught by Gwynne since steel is readily available and provides for good supporting strength, and having the side walls of a material having lower thermal conductivity than steel since it would have been an obvious matter of engineering design choice to choose a particular material for forming a structure as long as it needs a special design requirement.

5. Claims 42-45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ballard (4580380) in view of Arnstein (1656810).

Ballard (figure 5) shows a profile for frames of wall elements, doors or windows, having a top part(23) and a bottom part (24) and side walls (21, 22) which connect the same, wherein the insulation material(25) is held in the interior in a non-positive and/or positive manner, the insulation is fixed between the side walls.

Ballard does not show the side walls having openings, wherein on the side walls, in the region of the openings, there are inwardly deformable cams for the fixing of insulation material between the side walls.

Arnstein (figure 1) shows a profile with the side walls (a1, a2) having wall openings, the side walls in the region of the opening having deformable cams, the cams being located approximately centrally in the region of the base of an opening, the side walls having webs.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Ballard's structures to show the side walls having openings, wherein on the side walls, in the region of the openings, there are inwardly deformable cams as taught by

Arnsetin since having openings would reduce the weight structure, and forming cams in the side walls would reinforce the side walls against collapsing.

Per claims 44-45, Ballard as modified further shows the cam is disposed approximately centrally in the region of the base of an opening, wherein the insulation material is disposed in the region of the side walls, an upper and lower chamber (the chamber between parts 28, 33 and 24 respectively).

### *Response to Arguments*

6. Applicant's arguments with respect to claims 25, 27-45 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different frame profile designs.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different profiles.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO



MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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/Phi D A/  
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

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